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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/543,118

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Peter Bauer

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EXAMINER

TRAN, HANH VAN

ART UNIT

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3637

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/543,118	Applicant(s) BAUER ET AL.	
	Examiner HANH V. TRAN	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-24 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-24, 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to the Amendment filed on 3/16/2009.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 15, lines 11-12, "a channel spacing extending through the door".

Claim Objections

3. Claims 1-24, 27, and 35 are objected to because of the following informalities: claim 15, line 13-14, "the the viewing window" should be "the viewing window".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-24, 27, and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, claim 15, lines 11-12, the limitation of "a channel spacing extending through the door" is new matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 15-20, 22-24, 28-31, 33 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by WO 02/065036 to Bukulmez et al.

Bukulmez et al discloses a refrigerating appliance comprising all the elements recited in the above listed claims including a body, comprising: a door 2 abutting the body in a closed position; a display element/control panel 3; a viewing window 13 formed on said door; and said viewing window 13 oriented such that said display element/control panel 3 is visible when said door is closed, said door comprising: an outer wall; an inner wall; said outer wall and said inner wall interconnected along their longitudinal and transverse edges forming a space therebetween to form a depth for the door; and one transverse edge formed with a channel spacing extending through the door and a viewing window 13 extending over said channel spacing, wherein the viewing window and channel spacing allowing user visual access to space adjacent the opposing side of the door, said door having a rectangular outline and a pair of shorter rectangular sides and a pair of longer rectangular sides joining said shorter sides into said rectangular outline, including said viewing window 13 formed on one of said shorter

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rectangular sides of said door serving as said transverse edge, a transverse edge of said outer wall and a corresponding transverse edge of said inner wall lie opposite one another and an opening serving as said viewing window formed over said depth of said door, said transverse edge of said outer wall has said viewing window formed therein serving as a recess and projecting over said corresponding transverse edge of said inner wall, a first end element 9 affixed to the edge of said outer wall and an edge of said inner wall, said first end element and said outer and inner walls define an insulating intermediate space, said first end element following the contour of said viewing window, an at least partially transparent pane 14 arranged in said viewing window 13, with said pane 14 inserted in a window cut-out formed in said end element 9; wherein the door 2 covers the body of the refrigerating appliance to its upper edge and wherein the control panel 3 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window 13.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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10. Claims 21, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bukulmez et al.

Bukulmez et al discloses all the elements as discussed above except for the pane formed integrally with said end element.

In regard to the pane formed integrally with the end element (instead of two parts), the examiner takes the position that it would have been obvious to have the pane of Bukulmez formed integrally with the end element, since it is well known that constructing formerly various structures into a single or integral structure or vice versa involves only routine and well within the level of one skill in the art.

11. Claims 27 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bukulmez et al in view of DE 9218613 to Licentia.

Bukulmez et al discloses all the elements as discussed above except for the door including a non-transparent decoration formed at least on a portion of the back of the pane.

Licentia teaches the idea of providing a household appliance with a non-transparent decoration in a panel for aesthetic purpose. Therefore, it would have been obvious to modify the structure of Bukulmez et al by providing the door with a non-transparent decoration for aesthetic purpose, as taught by Licentia, since both teach alternate conventional household appliance structure, thereby providing structure as claimed.

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12. Claim 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/065036 to Bukulmez et al in view of USP 6,101,819 to Onaka et al and USP 7,031,144 to Carter et al.

Bukulmez discloses a refrigerator appliance comprising a body with a back side, a front side extending between an upper front edge and a lower front edge, an opening formed in the front side, and a top surface 10 extending to and between the back side and the front side, a control panel 3 mounted on the upper front edge of the body, the control panel 3 extending between the back side and the front side; and a door 2, the door 2 being operable to close off the opening formed in the front side of the body and the door 2 having an outer wall, an inner wall, the outer wall and the inner wall interconnected along their longitudinal and transverse edges forming a space therebetween to form a depth for the door, and one transverse edge formed with a viewing window 13 extending over the depth of the door, wherein the door 2 covers the body of the refrigerating appliance to its upper edge and wherein the control panel 3 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window 13.

The different being that Bukulmez fails to teach the control panel 3 mounted on the upper front edge of the front side of the body and extending to a height such that no portion of the control panel extends higher than the top surface (the control panel mounted to the front surface of the front side instead of the top surface 10 at the upper front edge of the body).

However, Onaka (figs 14-15) and Carter (figs 1-3) both show that it is well known in the art to also having a control panel mounted to the front edge of the front side of a body of a refrigerator appliance such that no portion of the control panel extends higher than the top surface of the body; wherein mounting the control panel to the front side of the body of a refrigerator facilitates viewing of the control panel, yet reduces the overall dimension of the refrigerator appliance. Therefore, it would have been obvious to one having ordinary skill in the art to modify the structure of Bukulmez by having the control panel 3 mounted on the upper front edge of the front side of the body and extending to a height such that no portion of the control panel extends higher than the top surface in order to facilitate viewing of the control panel, yet reducing the overall dimension of the refrigerator appliance.

Response to Arguments

13. Applicant's arguments filed 3/16/20090 have been fully considered but they are not persuasive. In response to applicant's arguments on page 9 that the applied references fail to teach or suggest the limitation in claim 15 of "a control panel mounted on an upper front edge of a body of the refrigerating appliance that is visible through a viewing window of a door", the examiner respectfully takes the position that (1) said limitation is in the preamble, not body of the claim, (2) the claimed language fails to provide adequate structural limitation to the claim in order to distinguish from the prior art of record. Bukulmez clearly discloses a control panel 3 mounted on an upper front edge of the body that is visible through a viewing window 13 of a door 2, thus meets the claimed limitations.

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14. In response to applicant's argument on page 9-10 that the applied references fail to teach or suggest the limitation in claim 28 of a "display element mounted at an upper front edge of the body and a viewing window oriented such that said display element is visible when said door is closed", the examiner again respectfully takes the position that the claimed language fails to provide adequate structural limitation to the claim in order to distinguish from the prior art of record. Bukulmez clearly discloses a display element 3 mounted at an upper front edge of the body and a viewing window 13 oriented such that said display element 3 is visible when said door is closed, thus meets the claimed limitations.

15. In regard to applicant's argument on page 10 that the control panel of Bukulmez is mounted on the top of the body, not on an upper front edge of the body, the examiner again respectfully takes the position that the claimed language in claims 15 and 28 fails to provide adequate structural limitation to the claim in order to distinguish from Bukulmez, and Bukulmez clearly shows the control panel 3 is mounted on the top panel and on an upper front edge of the body of the refrigerating appliance, thus meets the claimed limitation.

16. In response to applicant's argument on page 11 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

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1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Onaka (figs 14-15) and Carter (figs 1-3) both show that it is well known in the art to also having a control panel mounted to the front edge of the front side of a body of a refrigerator appliance such that no portion of the control panel extends higher than the top surface of the body; wherein mounting the control panel to the front side of the body of a refrigerator facilitates viewing of the control panel, yet reduces the overall dimension of the refrigerator appliance. Therefore, it would have been obvious to one having ordinary skill in the art to modify the structure of Bukulmez by having the control panel 3 mounted on the upper front edge of the front side of the body and extending to a height such that no portion of the control panel extends higher than the top surface in order to facilitate viewing of the control panel, yet reducing the overall dimension of the refrigerator appliance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT

July 6, 2009

/Hanh V. Tran/

Primary Examiner, Art Unit 3637